

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

MARIANO ANDRADE HERRADA
Plaintiff,

VS.

SALIM HIRMIZ and
OVIE SERVICES, INC.
Defendant.

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CIVIL ACTION NO.

DEFENDANTS', OVIE SERVICES, INC. AND SALIM HIRMIZ
NOTICE OF REMOVAL

Defendants, **OVIE SERVICES, INC AND SALIM HIRMIZ**, file this Notice of Removal for the purpose of removing this cause to the United States District Court for the Southern District of Texas, McAllen Division, based upon diversity jurisdiction and state as follows:

I. STATE COURT ACTION

1. This is an action filed on or about October 1, 2020, in the County Court at Law No. 4, Hidalgo County, Texas (the "State Court") being Cause No. **CL-20-36891-D** on the docket of the court (the "State Court Petition"), and being a suit by Plaintiff **MARIANO ANDRADE HERRADA**, against Defendant **OVIE SERVICES, INC. AND SALIM HIRMIZ** for money damages arising from a motor vehicle accident occurring on or about October 1, 2018, in Pharr, Hidalgo County, Texas (the "Accident"). Plaintiff alleges claims of negligence against Defendants arising out of said motor vehicle accident. Plaintiff's causes of action arise entirely under Texas state tort law.

II. FEDERAL JURISDICTION BASED ON DIVERSITY

2. Plaintiff **Mariano Andrade Herrada** has admitted in his Original Petition that he is an individual and resident of Hidalgo County, Texas. Upon information in the Texas Peace

Officer's Crash Report, it appears that at the time of the accident, Plaintiff was a resident of Reynosa, Tamaulipas, Mexico. Plaintiff has admitted in her Original Petition that Defendant, Ovie Services, Inc. and Salim Hirmiz, are residents of the State of Michigan. Plaintiff incorrectly alleges that no diversity exists because Defendant conducts business in the State of Texas. Plaintiff's Original Petition states that Plaintiffs seek monetary relief over \$200,000 but not more than \$1,000,000. Plaintiff has alleged damages including severe bodily injuries and makes claims for damages, including: severe pain and mental anguish in the past, present, and future; reasonable medical expenses in the past and future; physical impairment.

3. There is, therefore, complete diversity of citizenship as no Plaintiff shares a state of citizenship with Defendant and a sufficient amount in controversy exceeding \$75,000 to confer jurisdiction on this court pursuant to 28 U.S.C. § 1332 (a)(1). The above-described civil action is therefore one that may be removed pursuant to 28 U.S.C. §§ 1332, 1441, and 1146.

III. STATE COURT DOCUMENTS ATTACHED

4. This Notice of Removal is being filed within thirty (30) days after receipt through service or otherwise of Plaintiff's Original Petition filed in the State Court. This suit was originally filed on October 1, 2020. Defendant, Ovie Services, Inc., was served with this lawsuit on or about October 19, 2020. Removal is therefore timely under 28 U.S.C. § 1446(b). Attached hereto are copies of all pleadings, process, and orders received or filed by the parties in the State Court pursuant to 28 U.S.C. § 1446(a). Also attached is a copy of the State Court docket sheet and the entire contents of the State Court file.

IV. EXHIBITS TO NOTICE OF REMOVAL

5. **The index of State Court documents are as follows:**

A. **Docket Sheet** from the County Court at Law No. 4, Hidalgo County, Texas;

- B. **Plaintiff's Original Petition with Written Discovery;**
- C. **Defendant's Ovie Services, Inc. and Salim Hirmiz Original Answer and Affirmative Defenses;**
(Filed in State Court before Removal)
- D. **Notice of Filing of Removal; and**
- E. **List of Counsel of Record.**

V. RELIEF REQUESTED

6. Defendant respectfully requests that Cause No. **CL-20-3681-D** in the County Court at Law No. 4, Hidalgo County, Texas, be removed to the United States District Court for the Southern District of Texas, McAllen Division - the district court and division of proper jurisdiction and venue, and that this court assume jurisdiction of this case and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

LOPEZ PETERSON, PLLC

/s/ Gabriel Gonzalez

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was forwarded via certified mail, return receipt requested, via facsimile and/or hand-delivered to the Plaintiff's attorney on the 11th day of November 2020, to-wit:

Via Facsimile No. 888-441-5188

S. Greg Rushing
Rushing Legal, PLLC
9610 Long Point Road, #300
Houston, Texas 77055

/s/ Christopher C. Peterson
Christopher C. Peterson